

**BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION**

IN RE:	Samuel E. & Kimberly A. Smith	)	
	Dist. 14, Map 119, Control Map 119, Parcel 60.10,	)	Sullivan County
	S.I. 000	)	
	Residential Property	)	
	Tax Year 2005	)	

**INITIAL DECISION AND ORDER**

**Statement of the Case**

The subject property is presently valued as follows:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$78,900	\$177,300	\$256,200	\$64,050

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on April 12, 2006 in Blountville, Tennessee. In attendance at the hearing were Samuel and Kimberly Smith, the appellants, and Sullivan County Property Assessor's representative, Randy Morrell.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Subject property consists of a 1.2 acre tract improved with a residence constructed in 1993. Subject property is located in an established neighborhood at 1651 Fordtown Road in the southern city limits of Kingsport, Tennessee. A new interchange for I-81 has recently been constructed approximately 0.2 miles west of the subject. At present, subject area remains residential and agricultural. However, land surrounding the property is reportedly being purchased for assemblage for future commercial development.

The taxpayers contended that subject property should be valued at \$200,000. In support of this position, the taxpayers introduced an appraisal report prepared by Ben Broome, MAI and Timber R. Moores, which valued subject property at \$200,000 as of November 2, 2005. In addition, the taxpayers introduced a letter prepared by the appraisers dated November 18, 2005 which essentially constitutes a highest and best use analysis and potential future market value analysis. Finally, the taxpayers introduced photographs of less valuable homes in the area which they asserted devalue their property.

The assessor contended that subject property should be valued at \$256,200. In support of this position, Mr. Morrell introduced a rather voluminous exhibit prepared by the assessor's recently retired reappraisal coordinator, Rudy Brown. Mr. Brown's exhibit essentially consisted of numerous vacant land and improved sales which he maintained support the current appraisal of subject property.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic



and immediate value, for purposes of sale between a willing seller and a willing buyer *without consideration of speculative values . . .*" [emphasis supplied]

After having reviewed all the evidence in the case, the administrative judge finds that the subject property should be valued at \$200,000 in accordance with Mr. Broome's analysis.

The administrative judge finds that the primary area of disagreement between the parties concerned subject property's highest and best use. The assessor placed primary emphasis on the fact that land surrounding the subject property is being purchased for assemblage for future commercial development. Mr. Broome, in contrast, noted that property values will tend to remain stable until commercial development actually begins. Moreover, Mr. Broome observed that several years may pass before the development of an interchange for commercial use. Mr. Broome noted that certain older interchanges south of the subject area have never really developed commercially.

The administrative judge finds that Mr. Broome also considered the potential future market value of subject property as the area develops commercially. Mr. Broome analyzed the history of nearby interchanges and concluded that subject property would *presently* command \$150,000 per acre or \$180,000 for commercial development. According to Mr. Broome's analysis, the value of subject land will increase significantly once commercial development actually begins. Given the fact subject property should currently command \$200,000 as a residence, Mr. Broome concluded that residential use represents subject property's *present* highest and best use.

The administrative judge finds that Mr. Broome supported his conclusions much more persuasively than did Mr. Brown. The administrative judge finds Mr. Brown considered a hodgepodge of properties in his written analysis. For example, the "comparables" included lake lots, commercial tracts on Highways 11W and 11E, and numerous other parcels throughout Sullivan County. Respectfully, the sales were not even adjusted and in most cases cannot even be considered comparable to the subject. Moreover, Mr. Brown's exhibit did not actually address the issue of highest and best use.

Based upon the foregoing, the administrative judge finds that subject property should be appraised at \$200,000. The administrative judge finds that \$180,000 should be allocated to the land and \$20,000 to the improvements. The administrative judge finds that although the improvements still contribute value, the current use of subject property for residential purposes constitutes an interim use.

#### ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2005:



<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$180,000	\$20,000	\$200,000	\$50,000


It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 20th day of April, 2006.

  
 MARK J. MINSKY  
 ADMINISTRATIVE JUDGE  
 TENNESSEE DEPARTMENT OF STATE  
 ADMINISTRATIVE PROCEDURES DIVISION

c: Samuel E. & Kimberly A. Smith  
 Bob Icenhour, Assessor of Property